

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

**GOVERNMENT'S SENTENCING MEMORANDUM**

The United States submits this Sentencing Memorandum in the above-captioned case, currently scheduled for sentencing on January 30, 2019. For the reasons outlined in this memorandum, the Government believes that a sentence of 84 months' imprisonment, the low-end of the guideline range, is the appropriate sentence in this matter. Following the completion of this sentence, the Government requests that the defendant be on supervised release for a period of 36 months, be ordered to pay restitution in the amount of \$8,817 to the banks listed in the Superseding Indictment, and be required to pay a mandatory special assessment of \$400.

## I. PROCEDURAL HISTORY

On December 18, 2017, Stephen A. Davidow ("Davidow") was arrested in Boston on a supervised release warrant issued out of the District of Rhode Island. Davidow appeared in US District court in Rhode Island and was ordered detained. On January 9, 2018, Davidow was released from Rhode Island and arrested on a warrant out of the US District Court in Massachusetts charging

him with bank robbery in violation of 18 U.S.C. § 2113(a). Davidow appeared in this district and was ordered detained. On September 18, 2018, Davidow pled guilty to a four-count superseding Indictment charging him with bank robbery in violation of 18 U.S.C. § 2113(a).

**II. FACTS**

The facts, as stated in the Pre-Sentence Report ("PSR"), are uncontested. Between December 6, 2017, and December 11, 2017, 4 banks in the Greater Boston area were robbed. In each of the robberies, the robber was described as a thin "older" white male. In each of the robberies, the robber wore a hat covering his head, and sunglasses. In each of the robberies, the robber passed the banks' tellers a demand note and demanded cash. The FBI was able to compare the various banks' video surveillance footage from the dates of the robberies and opined that the same individual was responsible for each of the robberies. The FBI dubbed the robber the "Bad Hat Bandit."

**a. Commerce Bank - December 6, 2017**

On December 6, 2017, at approximately 4:45 p.m., an individual ("the robber") entered a branch of the Commerce Bank located on Washington Street in Boston. The robber approached a teller and showed her a note that read, "No dye pack, large bills." The teller recalled that the robber said, "Give me the money; you know how to do it. You only have five seconds and no

alarms." The teller handed the robber \$798.00 in U.S. currency. The bank staff described the cash as "mutilated money," meaning that it was old, worn or torn, and containing two \$50.00 bills that were bait bills. The robber then exited the bank with the currency and note.

The robber was described as a thin 50 to 55 year old white male, approximately 5'3" in height and 150 lb. in weight. The robber had no facial hair and was reportedly wearing a light gray jacket, gray pants, black wraparound sunglasses and a black scaly<sup>1</sup> cap.

Following the robbery, information and pictures of the robbery were disseminated to local media outlets and posted on the BRIC and Mass Most Wanted.

**b. Santander Bank - December 7, 2017**

On December 7, 2017, at approximately 2:25 p.m., an individual ("the robber") entered a branch of the Santander Bank located on Gallivan Blvd in Dorchester. The robber, carrying a blue nylon bag, approached a teller and showed her a note demanding cash. The teller recalled that the robber stated in substance, "you know what this is, I want it in \$20s and \$100s, no dye packs." The teller then handed the robber currency from

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<sup>1</sup> A flat hat

her drawer, which the robber placed in the blue nylon bag, and then exited the bank.

The teller described the robber as a thin older white male, approximately 5'9" in height. The teller stated that he was wearing a black knit hat, sunglasses, a white sweatshirt with holes in it and tan pants.

Interior bank surveillance cameras were operating and functioning on the date of the robbery. The cameras captured images of the robber as he entered the bank, interacted with the teller and then exited the bank. The video surveillance footage shows images of the robber, which are consistent with the description provided by the bank's teller. A post robbery audit determined that the robber had taken \$1,340.00 in U.S. currency.

The bank's exterior cameras additionally captured images of the robber as he approached the bank, and then exited the bank.

Following the robbery, the bank's security officer approached law enforcement and stated that prior to the robbery, she had observed an individual who was changing his pants outside the bank. The security officer stated that the individual was wearing boxer-style shorts with tan pants worn over the boxers. Law enforcement showed the security officer pictures from the bank robbery and the security officer stated that the person in the robbery pictures was the same person she observed donning the tan pants prior to the robbery.

Images of the robber were posted on the BRIC and later disseminated to local media outlets. On December 12, 2017, the FBI prepared a poster depicting the various robberies they opined the "Bad Hat Bandit" committed, and forwarded them accordingly. This posting was later featured on the Fox 25 News website. The website article provided various contact numbers for the Boston Police and the FBI, and urged individuals to call law enforcement if they had any information or details of these robberies.

**c. Metro Credit Union Bank - December 9, 2017**

On December 9, 2017, at approximately 9:23 a.m., an individual ("the robber") entered a branch of the Metro Credit Union bank located on Massachusetts Avenue in Boston. The robber, carrying a plastic bag, approached a teller. The robber put a note on the teller's counter and told her "I have a gun, you have ten seconds." The teller recalls that she froze and the robber said, "Hurry the fuck up, I am not playing" and started counting down from ten. The teller then gave him a pack of U.S. currency. The robber responded by saying "give me more, I am not playing" and made a motion with his right hand into the plastic bag, the teller noted that it seemed as if he was reaching for a weapon. The teller then handed him more money. The robber walked away in the direction of the front door, towards Massachusetts Ave.

A post-robbery audit determined that the robber had taken \$1,100.00 in U.S. currency.

The tellers described robber as a 45 to 55 year old white male, approximately 5'10" in height. He was reportedly wearing a dark gray winter hat, tan khaki pants, a dark olive jacket and white sneakers.

Following the robbery, information and pictures of the robbery were disseminated to local media outlets and posted on the BRIC and Mass Most Wanted.

**d. East Boston Savings Bank - December 11, 2017**

On December 11, 2017, at approximately 11:31 a.m. an individual ("the robber") entered a branch of the East Boston Savings Bank located on East Broadway in Boston. The robber walked up to a teller and held up a note written on a bank slip, the note read, "I am a robber. No dye pack. Give me all your money. No coins." The teller recalls that the robber then said, "No dye packs, give me all your money. I have a weapon, I can shoot you if you give me a dye pack." The teller then gave him an unknown amount of U.S. currency. The robber left with the money and note.

When an officer asked for a description of the robber, he was shown a photo of a thin 40 to 60 year old white male, approximately 5'8" to 5'9" in height.

A post-robbery audit determined that the robber had taken \$5,579.00 in US currency.

Following the robbery, information and pictures of the robbery were disseminated to local media outlets and posted on the BRIC and Mass Most Wanted.

**III. INVESTIGATION and ARREST OF DAVIDOW**

On December 15, 2017, the FBI received a "tip" via their public access line from an individual ("the CW"). The FBI contacted the individual and interviewed him. The CW stated that he worked at a halfway house<sup>2</sup> in Boston as a counselor, and that he had viewed the Fox 25 News article related to the recent string of bank robberies. The CW stated that the individual featured in the bank robbery pictures was Davidow. The CW stated that he knew Davidow as Davidow had been a resident at the halfway house, but had left the facility in late November 2017. The CW described Davidow as a thin white male, mid-fifties and 5'6" to 5'8" in height.

The FBI then acquired Davidow's name and learned that Davidow was currently on Supervised Release in Rhode Island. The FBI spoke with the Rhode Island supervising probation officer ("the PO") and forwarded photographs from the recent bank robbery. The PO reviewed the bank robbery photographs and

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<sup>2</sup> The Coolidge House.

stated that he had recently met with Davidow and believed that Davidow was the individual in the robbery pictures. The FBI further learned from the PO that Davidow had been a resident at the halfway house in Boston in November 2017, but absconded, and that there was a warrant for his arrest out of Rhode Island. Later on December 15, 2017, law enforcement learned that Davidow received medical treatment at the Boston Medical Center ("the BMC") on December 5, 2017. Law enforcement spoke with the BMC Police Department and advised them that there was an outstanding federal warrant for Davidow, and that they, the FBI, considered him a suspect in a string of recent robberies in the Greater Boston area.

On December 18, 2017, the BMC Police advised the U.S. Marshal and the FBI that Davidow was currently at the BMC facility seeking treatment. The U.S. Marshal arrived and placed Davidow under arrest on the Rhode Island warrant. After being advised of his rights, Davidow declined to be interviewed. The clothing Davidow was wearing at the time of this arrest is consistent with the clothing worn by the robber of the December 11, 2017 robbery of the East Boston Savings Bank<sup>3</sup>

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<sup>3</sup> The clothing consist of a gray kit cap and blue/gray jacket with distinctive white stripes on its sleeves.

**IV. GUIDELINE ANALYSIS**

**A. Offense Level Computation**

**¶ 65 Combined Adjusted Offense Level:**

The Government agrees with Probation's conclusions that, the Combined Adjusted Offense Level is 28.

**¶¶ 69 total Offense level:**

The Government agrees with Probation's conclusions that, the total Offense Level is 25.

**PART B. The Defendant's Criminal History**

**¶ 104 Criminal History Computation:**

The Government agrees with Probation's conclusions that, the defendant's criminal history score is eight, which establishes a criminal history category is IV.

**PART D. Sentencing Options**

**¶ 152 Guideline Provisions:**

The Government further agrees with Probation that, based on a total offense level of 25 and a criminal history category of IV, Davidow's guideline imprisonment range is 84 to 105 months.

**V. SENTENCING RECOMMENDATION**

18 U.S.C. § 3553(a) requires a sentencing court to consider specific enumerated factors when determining an appropriate sentence. These factors include: 1) the nature and circumstances of the offense and the history and characteristics of the defendant and 2) the need for the sentence imposed to

reflect the seriousness of the offense, to promote respect for the law, to provide just punishment for the offense, to afford adequate deterrence to criminal conduct, to protect the public from further crimes of the defendant, and to provide for the needs of the defendant.

For the reasons detailed below, the Government believes that a sentence of 84 months' imprisonment is fair and just and takes into account the factors enumerated in 18 U.S.C. § 3553(a).

Davidow, who is currently on supervised release for bank robbery, is a dangerous life-long criminal. As an adult, Davidow has been convicted of crimes on at least 30 different occasions. These offenses include:

- 1989-passing false checks -3 separate convictions;
- 1989 possession of a controlled substance;
- 1990 obtain a controlled substance;
- 1990 passing false checks;
- 1990 obstructing a police officer;
- 1990 larceny over \$250;
- 1990 larceny over \$250;
- 1991 larceny over \$500;
- 1992 assault and battery;
- 1992 Breaking and entering;
- 1994 passing false checks;
- 1995 assault on a police officer;
- 1995 larceny over \$500;
- 1995 larceny over \$500;
- 1995 possession of a stolen motor vehicle;
- 1998 possession of heroin;
- 1998 possession of a controlled substance;
- 1999 driving under the influence;

- 1999 shoplifting;
- 2001 driving on a suspended license
- 2001 receiving stolen property;
- 2001 robbery;
- 2002 forgery; and
- 2007 bank robbery;

Davidow, while on probation, has been found in violation of his probation on numerous occasions. Davidow has been sentenced to prison on 15 occasions with sentences to range between 3 months to over 10 years. It is clear from his criminal record that Davidow is unwilling or unable to refrain from criminal activity and conform his behavior to acceptable societal norms.

Davidow has had numerous opportunities, while in and out of custody, to take advantage of programs, which would aid him in dealing with various issues. It appears that during his recent incarceration he did take advantage of these opportunities and obtained a GED and some vocational training. However, within months of his release, and while in treatment, he violated the terms of his release and returned to using illegal drugs.

It is truly unfortunate, that it appears the only time Davidow is not involved in drug abuse and criminal behavior, is when he is incarcerated. The Government's recommendation, while severe, appears to be the only solution to curbing this behavior.

Bank robbery is a violent crime and leaves a lasting impression on the banks, the bank's employees, and society at large.

**v. CONCLUSION**

Defendant has disregarded the law and refused to conform his behavior to acceptable societal norms. This sentence is dictated by Defendant's own actions and decisions and is necessary to protect the public from Defendant and to deter similar conduct from others. The government is well within its rights to request a sentence at the high-end of the advisory guidelines. However, for the reasons stated herein, the Government requests this Court impose a sentence of 84 months' imprisonment, the low end of the guideline range. The Government requests this Court suggest, and implore Davidow to take advantage of BOP's 500 hour Residential Drug Abuse Program.

Following the completion of this sentence, the Government requests that Davidow be on supervised release for a period of 36 months, be ordered to pay restitution in the amount of \$8,817 to the banks listed in the Indictment, and a mandatory special assessment of \$400.

This is a just and appropriate sentence as dictated by the circumstances of this case and Davidow's life-long criminal history.

Respectfully submitted,

ANDREW E. LELLING  
United States Attorney

By: /s/ Kenneth G. Shine  
KENNETH G. SHINE  
Assistant U.S. Attorney

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

/s/ Kenneth G. Shine  
KENNETH G. SHINE  
Assistant U.S. Attorney